



PATENT
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Inventor: Thomas G. Harmer, et al.

Title: Racing Sulky

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Examiner: Bryan R. Fischmann

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Roger J. French

Dated: August 16, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RULE 132 DECLARATION OF
APPLICANT THOMAS G. HARMER

I, Thomas G. Harmer, on information and belief declare as follows:

1. I am an inventor of the invention of claim 5, namely, an offset racing sulky wherein at least one rail (or shaft) has a portion near the arch that is angled inwardly.
2. I have been informed that claims 5-8 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Stein et al., U.S. Patent 6,095,536 in view of WO 93/19969.
3. WO 93/19969 discloses an offset but does not teach or suggest a rail having a portion near the arch that is angled inwardly.
4. I have been informed that WO/93 19969 was published in 1993, but in over 20 years of harness racing, I have never seen that sulky or any other offset sulky.

5. Stein discloses angled rails but he does not teach or suggest an offset.
6. I recognize the Stein sulky as the "BlackJack" sulky which I believe to have been in public use since about 1998 when it was certified by the U.S. Trotting Association.
7. I knew of existing sulkies but was not satisfied with any of them, which led me to make the invention of claim 5, having a priority date of July 31, 2003, which I believe to be the first sulky to incorporate the advantages of an angled rail and an offset.
8. The invention of claim 5 was immediately accepted and embraced by the harness racing industry.
9. The invention of claim 5 has achieved unexpected and surprising results in that the harness racing sulkies of claim 5 have won so many races by such large margins that competitors have refused to race prior art sulkies against the claimed sulkies.
10. The invention of claim 5 has achieved outstanding commercial success in that in the past 12 months my company sold more than 350 sulkies covered by the claims. I believe that this represents more than 80% of the total market.
11. Sales of prior art sulkies declined sharply and have languished since I introduced the sulky of claim 5.
12. There are many manufacturers of harness racing sulkies. Several of them have copied the invention of claim 5.

I declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true. I understand that willful false statements and the like are punishable by fine or imprisonment, or both, and may jeopardize the validity of the application or any patent issuing thereon.

Executed on this 16th day of August, 2005.

Signed 

Thomas G. Harmer.